

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

LINDA J. HARPER-CASEY,)
)
Plaintiff,)
)
v.)
)
TIWANA GURSIMRANJEET)
SINGH)
)
AND AJIT TRANSPORT, INC.)
AND JOHN DOES 1-10)
)
)
)
Defendants.)

Case No. 3:22-cv-472-HTW-LGI

JURY TRIAL DEMANDED

NOTICE OF REMOVAL AND JURY DEMAND

Please take notice that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Tiwana Gursimranjeet Sing (hereinafter “Tiwana”) and Defendant AJIT Transport, Inc. (hereinafter AJIT) appearing by and through their undersigned counsel of record, hereby remove the above-captioned action to this Court from the Circuit Court of Hinds County, Mississippi, First Judicial District, where in it was previously assigned Case Number 22-166. In further support of this removal, Defendants state as follows:

1. Plaintiff filed her First Amended Complaint in the Circuit Court of Hinds County, Mississippi, First Judicial District, on March 23, 2022. The Circuit Court of Hinds County, Mississippi, First Judicial District, is located in the United States District Court, Southern District of Mississippi, Northern Division.

2. Plaintiff alleges that she served Defendant AJIT with documents pursuant to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, Article 5, Paragraph 4 (November 15, 1965).

3. Documents purporting to make service on Defendant AJIT were received by Defendant AJIT Transportation Inc. on July 15, 2022. Defendant reserves the right to challenge service should it become clear that proper service has not been completed.

4. Plaintiff has filed a return of service in the state court action purporting to have served Defendant Ajit on July 15, 2022.

5. No return of service has been filed in the state court action with respect to Defendant Tiwana to Defendants' best knowledge and belief. Defendant Tiwana's proper legal name is "Gursimranjeet Singh Tiwana."

6. Given that the earliest potential date of service on Defendant Ajit is July 15, 2022, according to the service return filed by Plaintiff, this removal pleading is timely if filed on or before Monday, August 15, 2022. Accordingly, this notice of removal is timely because it has been filed within thirty (30) days of the date of the earliest date Plaintiff has asserted that either Defendant was served with valid process.

7. Any civil action filed in a state court over which a federal district court would have original jurisdiction may be removed. 28 U.S.C §1441(a). Plaintiff has alleged personal injuries and past and future damages related to an automobile accident involving a tractor-trailer and a passenger vehicle that transpired on or about July 12, 2019. (Exhibit 1, Plaintiff's First Amended Complaint, ¶ 7-10). Plaintiff has alleged claims for compensatory and punitive damages.

8. This case is removable to federal court because this Court has original subject matter jurisdiction on diversity grounds pursuant to 28 U.S.C. § 1332(a)(1) and (2) because complete diversity of citizenship exists between the parties and the amount in controversy is in excess of the federal court's jurisdictional requirements. Accordingly, Defendant removes this entire action to the United States District Court for the Southern District of Mississippi, Northern Division, pursuant to 28 U.S.C. §§ 1441 and 1446.

9. Plaintiff's Complaint asserts, among other things, that Plaintiff is an adult resident citizen of Hinds County, Mississippi. (Exhibit 1, ¶ 1).

10. Defendant AJIT is a Canadian Corporation domiciled in Montreal, Quebec, Canada. Defendant Tiwana is a citizen of the country of India who is a permanent legal resident in Montreal, Quebec, Canada. (Exhibit 1, ¶¶ 3 and 4).

11. Defendants "John Does 1-10" are not identified as individuals and/or entities nor does Plaintiff provide any identifying information regarding citizenship or domicile of these fictitious Defendants. Where John Doe is a listed Defendant but has not been further identified, the citizenship of such Defendants does not affect removal on the basis of diversity. *Waker v. Bankers Life Insurance Co.*, 2018 WL 2347100 (U.S. Dist. Ct. W.D. Va. (2018)). "In determining whether a civil action is removable on the basis of diversity jurisdiction, the citizenship of defendants sued under fictitious names shall be disregarded." *Id.* (quoting 28 U.S.C. §1441(b)(1)).

12. There is complete diversity in this case because the named Defendants are residents and/or subjects of a foreign state, the country of Canada.

13. Plaintiff's First Amended Complaint is silent with respect to the total damages being claimed, however, on July 13, 2022, the Plaintiff identified claimed medical bills in the

amount of \$105,495.45 and demanded “\$1,000,000.00 or policy limits, whichever is greater” in the attached correspondence. (Exhibit 2).

14. Given the allegations of physical injury contained in Plaintiff’s First Amended Complaint; the past and future medical treatment claimed in the First Amended Complaint, the claimed past medical expenses in the amount of \$105,495.45, and the January 13, 2022 demand in the amount of \$1,000,0000, the amount in controversy in this case has been shown by Defendants to be in excess of \$75,000.00. Defendants have thereby satisfied the jurisdictional requirement pertaining to the amount in controversy set forth in 28 U.S.C. 1332(a).

15. More specifically, Defendants have demonstrated that the amount in controversy exceeds the jurisdictional threshold of \$75,000 based on the evidence available to Defendant at the time of removal.

16. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants or contained within the court file and available to Defendants at the time of this removal are attached as Exhibit 3. The Hinds County, Mississippi District Court Docket Sheet for the state court action is attached as Exhibit 4.

17. Pursuant to the provisions of 28 U.S.C. § 1441(a), the United States District Court for the Southern District of Mississippi, Northern Division, is the federal district court for the district embracing the place where the state court suit is pending.

18. Written notice of the filing of this Notice of Removal has been served on Plaintiff’s counsel and a copy has been filed with the Clerk of the Circuit Court of Hinds County, Mississippi (Exhibit 5).

DEMAND FOR JURY TRIAL

Defendants AJIT and Tiwana hereby demand a trial by jury on all issues pending in this case for which they have a right to have decided by a jury.

THIS the 12th day of August, 2022.

Respectfully submitted,

DunbarMonroe, PLLC

s/ David C. Dunbar

David C. Dunbar (MSB #6227)
(dcunbar@dunbarmonroe.com)
Christopher G. Dunnells (MSB #105029)
(cdunnells@dunbarmonroe.com)
270 Trace Colony Park, Suite A
Ridgeland, Mississippi 39157
601-898-2073 Office
601-898-2074 Facsimile
ATTORNEYS FOR DEFENDANTS
AJIT TRANSPORT, INC. and
GURSIMRANJEET SINGH TIWANA

AND

Additional Defense Counsel

Michael D. Matteuzzi,
(mmatteuzzi@ma2zlaw.com)
Matthew J. Brooker
(mbrooker@ma2zlaw.com)
MATTEUZZI & BROOKER, P.C.
10111 West 105th Street
Overland Park, KS 66212
T: 913-253-2500 / F: 913-253-2501
ATTORNEYS FOR DEFENDANTS
AJIT TRANSPORT, INC. and
GURSIMRANJEET SINGH TIWANA

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was sent by electronic mail and electronically filed on this 12th day of August, 2022, and that the following individuals were thereby notified:

Everett Pepper, MS Bar #103984
(everett@pepperodom.com)
PEPPER & ODOM. P.C.
420 Northpark Drive
Ridgeland, MS 39157
T: 601-202-1111
F: 888-456-2160
ATTORNEY FOR PLAINTIFF

s/ David C. Dunbar

ATTORNEYS FOR DEFENDANTS